

## **Remarks**

Claims 1 – 28 are pending in the present application. Claims 1 – 14 are rejected and claims 15 – 28 have been withdrawn from consideration.

In a telephone discussion of January 26, 2004, a provisional election was made to prosecute the claims 1 – 14. Applicants hereby affirm that election.

Claims 1 – 14 were objected to because of informalities. Applicants have amended claim 1 to address the informalities. Accordingly, it is respectfully requested that the Examiner withdraw the objections to claims 1 – 14.

Claims 1 – 14 were rejected as anticipated under 35 U.S.C. 102(e) by U.S. Patent Application Publication No. 2003/0149195A1, filed by Dar. Dar discloses a free radical retrograde precipitation polymerization process for producing dispersion (co)polymers. In contrast to Dar, the invention of the present application does not require a solvent or the removal of a precipitating agent. In addition, the lower critical solution temperature of the system, a required element of Dar, has no relevance to the production of copolymer particles under the present invention. In order to clarify the overall differences between Dar and the present application, Applicants have amended claim 1 to exclude the formation of the copolymer particles by free radical retrograde polymerization. As anticipation under 35 U.S.C. 102 requires identity of invention, in view of the significant differences between Dar and the present invention, it is respectfully submitted that claims 1 – 14 are patentable under 35 U.S.C. 102(e) over Dar.

Claim 1 was rejected as anticipated under 35 U.S.C. 102(b) by U.S. Patent No. 5,173,551, issued to Caneba. Caneba discloses a polymer formed by a free radical retrograde precipitation polymerization process. As set forth above, claim 1 has been amended to specifically exclude the free radical retrograde precipitation polymerization process. Accordingly, in view of the difference between Caneba and the present invention it is respectfully submitted that claim 1 is patentable under 35 U.S.C. 102(b) over Caneba.

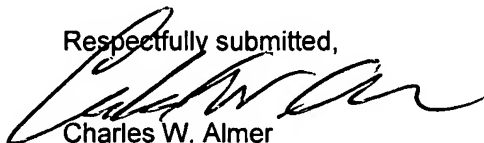
Claim 1 was rejected as anticipated under 35 U.S.C. 102(b) by U.S. Patent No. 6,121,371, issued to Matyjaszewski. Matyjaszewski discloses a copolymer emulsion that comprises a catalyst system that is at least soluble in both monomer phase and polymer phase

and is used to control polymerization in a process called atom transfer radical polymerization. This process requires a transition metal catalyst that controls polymerization by acting as what the Applicants have termed a chemical capping agent. The action as a capping agent is shown in Scheme 1 in Matyjaszewski. In contrast to Matyjaszewski, the present invention does not comprise a catalyst system that functions as a capping agent. Accordingly, it is respectfully submitted that claim 1 is patentable under 35 U.S.C. 102(b) over Matyjaszewski.

Claim 1 was rejected as anticipated under 35 U.S.C. 102(b) by JP 04-002963, filed by Hoshino. Hoshino discloses the use of a combination of a stabilized radical compound and fine particles. In contrast to the present invention, Hoshino does not disclose living radicals. The disclosure of Hoshino does comprise stable radicals, however those radicals are not on polymer chains, cannot initiate polymerization by themselves when another monomer is added and are not living radicals as defined in the present application. In view of the differences between Hoshino and the present invention, it is respectfully submitted that claim 1 is patentable under 35 U.S.C. 102(b) over Hoshino.

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance. If there are any issues that the Examiner wishes to discuss, he is invited to contact the undersigned attorney at the telephone number set forth below.

Respectfully submitted,



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